

Professional Services Agreement

This Professional Services Agreement between the Indiana Supreme Court Division of State Court Administration ("Client"), 115 West Washington Street, Suite 1080, Indianapolis, Indiana 46204, and Computer Associates International, Inc. ("CA"), One Computer Associates Plaza, Islandia, NY 11749, is made effective this 28th day of June, 2002, and sets forth the terms and conditions pursuant to which CA shall provide certain professional services (including but not limited to project management, product implementation, CMS configuration and modification) for the benefit of Client.

RECITALS

- A. Client intends to equip Indiana courts and court clerks with a CMS (as defined in Section 2).
- B. Client intends to connect the CMS (as defined in Section 2) to local and state entities that have a need to access and use court information.
- C. Through the implementation of the CMS (as defined in Section 2), Client expects that courts and clerks will be able to: manage their caseloads faster and more cost-effectively, reduce the cost of court operations borne by Indiana counties, and provide more accurate, comprehensive and timely information to the public, policy makers and law enforcement.
- D. Client's vision is for the CMS (as defined in Section 2) to replace the integrated system currently in use by the justice community in Marion County and provide that justice community with the functionality of the CMS.
- E. Client has selected CA through a competitive and thorough selection process to be the principal contractor for professional and development services needed to create and install the CMS (as defined in Section 2).
- F. Client has chosen CA as a result of its leadership position in the software industry, the comprehensiveness and quality of its proposed solution, and the value of its proposed solution.
- G. CA intends to configure its existing case management system through an "enterprise wide model" approach inclusive of all members of the Indiana Justice Community to conform to Indiana requirements, and integrate any required modifications to conform to Indiana's requirements into CA's existing trial court case management system. CA intends to create a fully configured case management system, develop interfaces between the fully configured case management system and local and state agency databases, install and test the fully configured case management system and additional CA software and other products, implement the fully configured case man-

agement system in individual courts throughout the State of Indiana and maintain and support the fully configured CMS (as defined in Section 2).

H. The parties will work together to achieve the goals of Client in developing and implementing a CMS (as defined in Section 2) in accordance with the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the above premises and the mutual promises, covenants and agreements set forth herein, the parties hereto agree as follows:

1. SCOPE OF AGREEMENT

a. CA shall provide certain professional, services to Client as set forth in the Statements of Work (as defined in Section 2) attached hereto as Exhibit A and any subsequent Statements of Work agreed to by the parties.

b. Under this Agreement, Client and CA may, from time to time, mutually agree on professional services which shall be described in one or more additional Statements of Work and which shall be attached hereto as subsequent Exhibits. All Statements of Work shall be subject to written acceptance by both CA and Client. Either party may elect not to accept a Statement of Work. If either party elects not to accept a Statement of Work, then such Statement of Work shall not become a part of this Agreement.

c. All Statements of Work must reference this Agreement. Upon acceptance by CA and Client of a Statement of Work, such Statement of Work shall be signed by both parties. Only Statements of Work signed by both parties will become a part of this Agreement.

d. All Statements of Work that are signed by both parties shall be numbered sequentially, attached hereto as part of Exhibit A respectively, and unless explicitly provided otherwise in a Statement of Work shall be subject to the terms and conditions of this continuing Agreement.

2. DEFINITIONS

In this Agreement, the following terms shall have the following meanings:

a. "Agreement" means this document, all Statements of Work (as defined herein) initially attached hereto and subsequent Statements of Work and other documents and materials attached in the future by agreement of the parties.

b. "Case Management System" or "CMS" means the 21st century court case management system to be developed under this Agreement which includes (1) CA's existing case management system software prior to configuration; and (2) the case management system delivered under Statements of Work subject to this Agreement.

Unless otherwise explicitly provided in this Agreement, any reference to CMS in this Agreement means the fully configured CMS, as it exists from time to time with all modifications.

c. “CA Key Personnel” means those particular personnel or positions of CA or CA subcontractors engaged on Client’s account as persons or positions Client deems to be especially important to the work to be completed under this Agreement.

d. “Client Confidential Information” means any information, written or oral, disclosed to CA or known by CA as a consequence of or through the services performed by CA in accordance with this Agreement, including, but not limited to, information related to Work Product (as defined herein), products under development, purchasing, accounting, Client requirements, and the documentation thereof, including information supplied to CA from outside sources for the purpose of performing the services, with the following exceptions: (1) information which CA can demonstrate in writing was known by CA prior to being disclosed by Client to CA; (2) information ascertainable or obtainable from public or published sources; (3) information received by CA from a third party who is not employed by or affiliated with Client and is not under an obligation to Client to maintain such information in confidence; (4) information which is or becomes known to the public generally other than by a breach of this Agreement by CA; (5) this Agreement and information specifically pertaining to this Agreement including pricing and scheduling, as well as responses given to the Public Notice of Contracting Opportunities issued by the Client on December 23, 2001; and (6) information which is otherwise required by law to be disclosed.

e. “CA Confidential Information” means any information, written or oral, disclosed to Client by CA related to CA’s business, including, but not limited to, information related to CA’s existing case management system, prior to configuration under this Agreement, licensed software, products under development, manufacturing, purchasing, accounting, and the documentation thereof, including information supplied to Client from outside sources for the purpose of performing the services under this Agreement, with the following exceptions: (1) information which Client can demonstrate in writing was known by Client prior to being disclosed by CA to Client; (2) information ascertainable or obtainable from public or published sources; (3) information received by Client from a third party who is not employed by or affiliated with CA and is not under an obligation to CA to maintain such information in confidence; (4) information which is or becomes known to the public generally other than by a breach of this Agreement by Client; (5) this Agreement and information specifically pertaining to this Agreement including pricing and scheduling, as well as responses given to the Public Notice of Contracting Opportunities issued by the Client on December 23, 2001 and (6) information which is otherwise required by law to be disclosed.

f. “Date of Acceptance” means the particular date that a Deliverable is accepted by the Client and that such acceptance is delivered in writing to CA by Client.

g. "Deliverable" means software and Work Product (as defined herein) which is explicitly identified in a Statement of Work (as defined herein) as an item to be delivered to Client.

h. "Initial Term" means the term of this Agreement which commences on the Effective Date and, unless sooner terminated by the terms of this Agreement, continues for a period of three (3) years.

i. Renewal Term means individual periods of one year which may follow the Initial Term and during which time this Agreement continues in full force and effect.

j. "Official Business of the Indiana Justice Community" means all activities of any person, group, organization or agency of the Judicial Branch of Indiana (including clerks of court) and any activity of any person, group, organization or agency of Indiana state or local government involving access to records, information, dockets or other transactions of the Judicial Branch.

k. "Project" means the work to be performed under a Statement of Work.

l. "Specifications" means a Statement of Work and one or more Deliverables created or developed pursuant to such Statement of Work which define or describe functionality, design criteria, content, format, structure or any other feature or requirement for the creation or development of a future Deliverable pursuant to such Statement of Work. The term Specifications also includes the CMS Functionality Details listed in the initial Statement of Work.

m. "Statement of Work" means the detailed statements of professional services to be performed by CA, setting forth the Specifications for the work to be performed, specific services to be performed by CA, schedules for implementation and completion of the development services, the fees and expenses to be paid by Client, lists of the specific Deliverables to be developed by CA and delivered to Client pursuant to the tasks described therein, and criteria for testing the Deliverables as set forth in Exhibit A as they may be attached hereto and made a part hereof.

n. "Test Period" means the period of thirty (30) days from the date Client receives a Deliverable to evaluate, review and test such Deliverable in accordance with the Specifications and test criteria set forth in the applicable Statement of Work. Client and CA agree to work in good faith to complete such evaluation and testing within the Test Period.

o. "Work Product" means an idea or concept conceived, created, or made by CA or its officers, employees, agents, and the like in the course of performing the professional or development services pursuant to a Statement of Work and/or a work of authorship fixed in any tangible medium of expression by CA or its officers, employees, agents, and the like in the course of performing the professional services pursuant to a Statement of Work, including, but not limited to, Deliverables, notes, specifications,

drawings, blueprints, flow charts, memoranda, correspondence, records, notebooks, computer programs (object or source code), data bases, documentation, reports, and charts, regardless of the medium in which they are fixed, and all copies, in whole or in part, thereof that are specifically developed by CA for Client hereunder. However, ownership of all technology know-how, techniques, software, code (object and source), and other materials that are pre-existing and may be furnished and utilized by CA in connection with its services hereunder shall remain in CA. Client's use of any of CA's software shall remain governed by the terms of the applicable software license agreement, including provisions relating to confidentiality.

p. "Configure" when referencing the CMS means selection of built-in CMS functionality by alteration of CMS database tables and/or stored procedures.

q. "Modify" when referencing the CMS means addition of new functionality to the base CMS solution via alteration of its GUI, stored procedures, or database tables.

3. CA RESPONSIBILITIES

CA shall develop the Deliverables and perform all services set forth in the Statements of Work in accordance with the schedule set forth therein and shall provide overall management of the professional services in accordance with the Statements of Work.

4. ACCEPTANCE

a. Upon delivery by CA of a Deliverable to Client in accordance with a Statement of Work, Client shall evaluate, review and test such Deliverable during the Test Period in accordance with the Specifications set forth in the applicable Statement of Work or in Deliverables resulting from a Statement of Work.

b. In the event that Client believes that a Deliverable does not conform to the Specifications or the test criteria set forth in the applicable Statement of Work, then Client shall notify CA in writing within the Test Period setting forth the reason or reasons why Client believes that such Deliverable does not conform. Client shall identify all non-conformities within a single written notice of rejection, unless a non-conformity prevents Client from evaluating, reviewing and testing the entire Deliverable. Client may reject a Deliverable only for its failure materially to conform to either the Specifications or test criteria set forth in the Statement of Work. Client acceptance shall not be unreasonably withheld.

c. If Client delivers to CA written notice of rejection of a Deliverable within the Test Period, then CA shall have thirty (30) days from the date of receipt of a written notice of rejection either (i) to correct the non-conformities that Client identifies in the written notice or (ii) to develop a plan mutually agreeable to Client and CA to correct the non-conformities that Client identified in the written notice within a period of time no greater than thirty (30) days, agreed to by the parties in the plan.

d. Upon correction, CA will resubmit the corrected deliverable to Client for evaluation, review, and testing and the procedure set forth above shall be repeated. Such procedure shall continue until the earlier of (i) failure of CA to correct any non-conformity after twice being rejected by Client, or (ii) Acceptance of the Deliverable by Client. In the event a non-conformity has not been corrected after twice being rejected by Client, such failure shall constitute a material breach of this agreement and Client may terminate this agreement as provided in Section 20.

e. The Client, prior to commencement of work on any subsequent stage must accept the Deliverables for the prior stage in writing. Documents of prior stages shall be valid only for the purpose of historical reference.

5. SUCCESSION OF DOCUMENTS AND DELIVERABLES

a. In the event that there is any inconsistency between a term in this Professional Services Agreement and a Statement of Work, the term in this Professional Services Agreement shall control unless the Statement of Work explicitly provides that the terms therein shall control.

b. As each stage of a Project is completed, whenever a Deliverable is accepted as provided in Section 4, the terms of the accepted Deliverable shall supersede and replace previously accepted Deliverables to the extent that there is any conflict or change.

6. EDUCATION AND TRAINING

Unless specifically provided for, the services described in a Statement of Work do not include any education or training by CA. If not provided for in a Statement of Work, CA agrees to provide any education or training reasonably requested by Client under an additional Statement of Work or other document containing terms and conditions (including any additional fees payable by Client to CA) mutually acceptable to the parties. Any such additional Statement of Work or other document shall become a part of this Agreement as provided in Section 1.

7. OWNERSHIP OF WORK PRODUCT

a. Client shall own all rights, title and interests in and to Work Product conceived, made or created either solely by CA or jointly with Client in the course of CA's performance of services under a Statement of Work including but not limited to all intellectual property rights therein. CA hereby assigns to Client all rights, title and interests in and to Work Product, subject to the reservation of rights and non-exclusive license set forth in this Section. Upon Client's request, CA will promptly execute any documents required to evidence transfer of ownership of such Work Product and the intellectual property rights therein to Client.

b. CA hereby reserves the right, and Client hereby grants to CA non-exclusive, perpetual, irrevocable license (1) to make, use and distribute the Work Product for any purpose and in any field of use; (2) to modify the Work Product; and (3) to reproduce and distribute copies of the Work Product and such modifications in any medium and by any means to others.

8. MAINTENANCE AND SUPPORT SERVICES

Unless specifically provided for in a Statement of Work, the services described in a Statement of Work do not include any routine support or maintenance of licensed software from CA. CA routinely provides such support and maintenance as part of its software warranty under a CA software license agreement. CA agrees to provide any on-site or other services which are not included in CA's standard support and maintenance reasonably requested by Client under a separate Statement of Work or other document containing terms and conditions (including any additional fees payable by Client to CA) mutually acceptable to the parties. Any such separate Statement of Work or other document shall become a part of this Agreement as provided in Section 1.

9. DISPUTE RESOLUTION

Any dispute relating to this Agreement, including but not limited to a contention that any party is alleged to have breached any term of this Agreement, the expedited procedures of this Section shall apply to permit the prompt and full review, cure and remedy of any such non-performance. Upon receipt of the written statement of the complaining party, the non-performing party shall take all such action as may be required to cure and remedy the alleged default within fifteen (15) days. If the non-performing party disagrees that there is a breach, the matter will be submitted to rapid resolution mechanism as provided herein. If that mechanism establishes that either party did breach this Agreement, it will then have the cure period provided above. This Agreement will remain in effect pending such resolution and cure. Notwithstanding the cure period or referral for rapid resolution, either party may resort to injunctive relief in any court of competent jurisdiction within the State of Indiana for any violations of the confidentiality obligations contained herein, provided that any injunction shall not prohibit the enjoined party from actions otherwise permitted by this Agreement.

If the regularly designated representatives of the parties charged with the relationship management and administration of this Agreement shall be unable to resolve the dispute within twenty (20) days of the date on which it first arises, upon the written request of any party hereto, the Chief Information Officers (or equivalent officers) of the parties shall promptly confer in good faith to resolve the dispute. If the dispute remains unresolved at the end of that twenty (20) day period, upon the written request of any party, the President or Chief Executive Officer (or equivalent officers) of the parties shall promptly confer within the next twenty (20) days in good faith to resolve the dispute.

If the foregoing fails to resolve the dispute, the parties to the dispute may refer the dispute to non-binding mediation pursuant to the rules of JAMS/Endispute or binding

arbitration before The American Arbitration Association, as the parties may mutually agree to be appropriate for the dispute. Any such proceeding shall take place in Indianapolis, Indiana, and each party shall bear its own expenses in any such proceeding.

If the dispute remains unresolved, it may be submitted by any party to the United States District Court of the District of Indiana, and, in the event such Court declines to assert jurisdiction for any reason, to the courts of competent jurisdiction of the State of Indiana, it being expressly understood that each of the parties waives its right to request the recusal of any judge on the basis of the identity of Client as a State entity or its personnel as judicial officers.

During the pendency of the resolution of any dispute, the parties shall continue to perform all of their respective obligations hereunder.

10. CHANGE ORDER PROCEDURE

Whenever during the course of this Agreement one of the parties requests or identifies the need for a change to a Statement of Work, the following procedure shall apply. The CA project manager shall complete a change request form ("Change Request") which will describe in reasonable detail CA's understanding of the requested change, the impact that the change will have on the Project, the estimated resources and time required to implement the change, any additional fee (or estimated fee) associated with the change, and any additional terms and conditions not contained in this Agreement to perform such change. The CA project manager will submit the completed Change Request to the Client for review and approval. Any fee quotation or estimate provided in the Change Request will remain in effect for the period of time specified in the Change Request. If the form does not specify a period of time, the fee quotation or estimate will remain in effect for a period of 30 business days from the date of submission. If the Client does not accept the Change Request in writing within the applicable period of time, and CA does not extend the approval period in writing, the fee quotation or estimate will automatically expire. If Client accepts the Change Request in writing, (a) the Statement of Work and Project Schedule if impacted, shall be amended as provided in the Change Request and, the amendment shall be signed by both parties and attached to the appropriate Statement of Work and become a part of this Agreement, and (b) the CA team will begin work on the requested change according to the terms of this Agreement and the amendment. Due to the complexity of some project change requests, the Client may be charged for the time required to scope and estimate the requested change. The CA Project Manager will advise the Client of the estimate, if a charge will apply. If the Change Request is accepted by the Client, the cost, if any, for the time required to scope and estimate the Change Request will be included in the cost of the actual change. If the Change Request is rejected by Client, Client will pay for reasonable costs, if any, that are associated with scoping the change, upon invoice by CA. CA's rate for any time and materials for Change Requests shall not exceed \$150 per hour for the first year of this Agreement and shall not increase by more than 10% annually thereafter.

11. INSTALLED SOFTWARE

In connection with CA's performance under this Agreement, Client acknowledges that CA may install on Client's computers certain software that is owned or licensed by CA (including, but not limited to, Express Delivery™) and not licensed by Client. These software products may consist of tools, processes, and methodologies, and they are the proprietary property of CA or CA's licensor. The Client hereby expressly authorizes CA to utilize such software in connection with delivery of the services hereunder and, when necessary, load and install such software on the Client's CPUs in order to permit CA to perform its obligations. The Client and its employees will keep such software strictly confidential, and will neither use the software for anything other than the delivery of the services provided hereunder, nor market, copy, disclose, or otherwise distribute the software. The Client will not remove or destroy any proprietary markings of CA. At the conclusion of this Agreement, the Client hereby authorizes CA, and CA shall be entitled, to remove all components of the software from the Client's CPU's. Upon request by CA, the Client shall cooperate with CA in such removal efforts by furnishing CA with certification that to the best of its knowledge all such components of the software have been deleted from Client's systems. The provisions set forth in this section shall survive the expiration or termination of the Agreement for any reason.

12. AMENDMENTS TO AGREEMENT

This Agreement may be amended at any time but only by written agreement of the parties. Any such amendment shall become part of the Agreement upon execution by both parties.

13. PAYMENT

All payments are due within forty-five (45) days of invoice date unless expressly stated otherwise and signed by both parties.

14. WARRANTY

CA warrants that it will perform the services set forth in a Statement of Work with employees who possess the appropriate skills to perform in accordance with the Statement of Work and that the performance of such services will conform to generally accepted practices in the software industry. CA further warrants that the Work Product does not infringe any patent, copyright, or other intellectual property right of any third party.

CA further warrants that the Deliverables will comply with the Specifications during the limited period provided in the Statement of Work or for 30 days following the Acceptance Date of the Deliverable. CA will use its best efforts, consistent with industry standards, to cure any defect or nonconformity with such Specifications during such period without any charge to Client.

15. WARRANTY AND LIABILITY LIMITATIONS

EXCEPT AS SET FORTH IN THIS AGREEMENT, NO OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE MADE BY CA. IN NO EVENT WILL CA BE LIABLE TO CLIENT OR ANY OTHER PARTY FOR ANY LOST PROFITS OR CONSEQUENTIAL DAMAGES BASED ON CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, WHICH MAY ARISE HEREUNDER OR FROM THE USE, OPERATION, OR MODIFICATION OF A DELIVERABLE. THE MAXIMUM LIABILITY OF CA HEREUNDER SHALL NOT EXCEED THE AMOUNT ACTUALLY PAID BY CLIENT UNDER ALL STATEMENTS OF WORK UNDER THIS AGREEMENT.

16. INDEMNITY

CA shall defend, indemnify and hold harmless Client from and against all damages to persons, or tangible property and any related costs and expenses, including court costs and reasonable attorney fees, caused solely by the negligence of CA and from and against all claims and liability and related costs and expenses, including court costs and reasonable attorney fees, resulting solely from a material breach of this Agreement by CA.

CA shall defend, indemnify, and hold harmless Client against any claim of a third person for infringement of patents, copyrights, trade secrets or trademarks by any Work Product and Deliverables delivered to Client under this Agreement or Work Product and Deliverables; provided, however, that the foregoing undertaking of CA shall not apply unless CA has been informed as soon as practicable by Client of the charge or suit alleging such infringement and shall have been given the opportunity to take over the defense thereof. In the event of any claim of a third person for infringement by Work Product and Deliverables under this Agreement, CA may, at its own expense, and at its option either:

- a. procure for Client the right to continue using the Work Product and Deliverables; or
- b. replace the Work Product and Deliverables with a non-infringing counterpart; or
- c. modify the Work Product and Deliverables so that it is non-infringing.
- d. if none of the foregoing remedies are commercially feasible, terminate this Agreement upon written notice to Client and refund to Client the fees paid by Client to CA for such Work Product and Deliverables. Upon termination, Client shall deliver to CA all copies of the Work Product and Deliverables and upon CA's receipt of such copies, Client shall be issued the refund.

17. NON-SOLICITATION OF EMPLOYEES

For the duration of this Agreement and for the period of one (1) year following termination hereof, neither party shall, directly or indirectly, recruit or attempt to recruit any employee or agent of the other party or otherwise initiate any offer or promise of employment with any employee or agent of the other party without the prior written consent of the other party. The foregoing restriction shall not apply with respect to solicitation by, or hiring in response to advertisements in newspapers of general circulation, job fairs or unsolicited resumes or applications for employment.

18. ASSIGNMENT

Neither this Agreement, nor any obligations under it, may be assigned or delegated by either party without the prior written consent of the other party, except that Client may assign this Agreement to any other State of Indiana government entity or local government entity within the State of Indiana and CA may assign this Agreement to its majority owned subsidiary which is financially and technically capable of performing all assigned and assumed obligations hereunder or to a successor entity to which substantially all of the CA's business has been transferred, provided that the assigning party is not then in default of its obligations hereunder, the scope of usage of any license is not expanded thereby and such successor assumes all obligations hereunder and is financially and technically capable of performing the same. CA and Client acknowledge that Client has entered into this Agreement with CA in reliance on CA's unique ability to provide the professional services needed to develop the CMS, notwithstanding any other provision of this Agreement or any Statement of Work, CA may not assign any of its obligations in connection with the CMS without the prior written consent of Client.

19. CA PERSONNEL

a. Client, with the agreement of CA, which agreement shall not be unreasonably withheld or delayed, may from time to time designate a number of personnel or positions of CA or CA subcontractors engaged on Client's account as CA Key Personnel. CA shall not reassign or replace CA Key Personnel during the first year of their assignment, except for a replacement or reassignment due to the occurrence of a Reassignment Waiver. A "Reassignment Waiver" occurs if (1) Client consents to such reassignment or replacements or (2) such CA Key Personnel (i) voluntarily resigns from CA, (ii) is dismissed by CA for misconduct or unsatisfactory performance in respect to his or her duties and responsibilities to CA or to Client pursuant to this Agreement or (iii) is unable to work due to death or disability.

b. Before assigning an individual to a key management position designated as a CA Key Personnel position, initially and subsequently, CA shall: (1) introduce the individual to Client; (2) consistent with CA's personnel practices, provide Client with any information reasonably requested regarding the individual; and (3) discuss any reasonable concern Client may have to such assignment. CA will provide Client with at least

30 days' notice before assigning a new CA Key Personnel position, unless the CA Key Personnel; (i) resigns from employment; (ii) is dismissed by CA; or (iii) is unable to work due to death or disability.

c. While at the Client service locations, CA and CA subcontractors shall (1) comply with the requests, standard rules and regulations of Client regarding safety and health, personal and professional conduct (including adhering to general safety practice or procedures) generally applicable to such Client service locations and (2) otherwise conduct themselves in a businesslike manner. CA shall cause personnel of CA and CA subcontractors who provide the Services to maintain and enforce the confidentiality provisions of this Agreement.

d. In the event that Client reasonably determines that a particular person engaged on Client's account is not satisfactory to Client, Client shall notify CA of such fact and CA shall either (1) instruct the individual to observe Client's standard of conduct or (2) take direct action to improve such individual's conduct or skill level. If the individual continues to behave inappropriately or perform inadequately, CA shall promptly remove such individual from the Client account.

20. BREACH AND TERMINATION

a. The term of this Agreement shall commence on the Effective Date and, unless sooner terminated as provided in this section, shall continue for the Initial Term or until CA has completed the professional and development services it is obligated to perform under each Statement of Work that is a part of this Agreement, whichever occurs later. This Agreement shall renew for additional Renewal Terms unless Client or CA notifies the other in writing at least thirty (30) days prior to the expiration of either the Initial Term or any of the Renewal Terms of its intention to terminate this Agreement; provided, however, that this Agreement shall not terminate until CA has completed the professional and development services it is obligated to perform under each Statement of Work that is a part of this Agreement. In the event that CA completes all of the professional and development services under all Statements of Work prior to the end of the Initial Term or any Renewal Term and no additional Statement of Work is agreed to by the parties prior to the end of the Initial Term or Renewal Term, then this Agreement shall automatically terminate at the end of the Initial Term or Renewal Term.

b. If Client shall, at any time during the Initial Term or any of the Renewal Terms of this Agreement, materially breach any obligation hereunder, and such breach shall not be cured within fifteen (15) business days after written notice from CA to Client specifying the nature of the breach, CA may terminate this Agreement.

c. If CA shall, at any time during the Initial Term or any of the Renewal Terms of this Agreement, materially breach any obligation hereunder, and such breach shall not be cured within fifteen (15) days after written notice from Client to CA specifying the nature of the breach Client may terminate this Agreement.

d. Sections 2, 5, 7, 9, 14, 15, 16, 17, 21, 22, 32, 34, and 36 herein shall survive the termination of this Agreement.

21. NON-DISCLOSURE OF CLIENT CONFIDENTIAL INFORMATION

a. CA acknowledges that all Client Confidential Information shall at all times remain the property of Client and Client shall have free and unlimited access at all times to all materials containing Client Confidential Information and shall have the right to claim and take possession of such materials on demand.

b. Except as required in CA's duties to Client, CA will not, during the term of this Agreement or thereafter, directly or indirectly use, divulge, disseminate, disclose, lecture upon, or publish any Client Confidential Information without having first obtained written permission from Client to do so.

c. CA will safeguard and maintain secret all Client Confidential Information and all documents and things that include or embody Client Confidential Information.

d. In order to comply with its obligations under this Section, CA shall bind and engage all of its officers, employees, agents, contractors and the like who might reasonably be expected to perform or to assist in the performance of the Services to an agreement having terms the same as or equivalent to the terms of this Section of this Agreement.

e. Upon termination of this Agreement, for whatever reason, or upon request by Client, CA will deliver to Client all notes, drawings, memoranda, correspondence, documents, records, notebooks, printouts, disks, programs, electronic or magnetic storage media, and similar repositories of Client Confidential Information, including all copies thereof, then in CA's possession or under CA's control, whether prepared by CA or by employees or agents of CA.

f. This obligation to safeguard and maintain secret Client Confidential Information shall continue for (i) a period of three (3) years after the earlier of termination of this Agreement or completion of all work and services under all Statements of Work, or (ii) any longer period as required by statute or court rule.

22. NON-DISCLOSURE OF CA CONFIDENTIAL INFORMATION

a. Client acknowledges that all CA Confidential Information shall at all times remain the property of CA, and CA shall have free and unlimited access at all times to all materials containing CA Confidential Information and shall have the right to claim and take possession of such materials on demand.

b. Except as required to assist CA with the provision of the services under this Agreement, Client will not, during the term of this Agreement or thereafter, directly or indirectly use, divulge, disseminate, disclose, lecture upon, or publish any CA Confidential Information.

dential Information without having first obtained written permission from CA to do so.

c. Client will safeguard and maintain secret all CA Confidential Information and all documents and things that include or embody CA Confidential Information.

d. In order to comply with its obligations under this Section, Client shall bind and engage all of its officers, employees, agents, and the like who might reasonably be expected to assist in the provision of the services to an agreement having terms of same as or equivalent to the terms of this Section of this Agreement.

e. Upon termination of this Agreement for whatever reason or upon request by CA, Client will deliver to CA all notes, drawings, memoranda, correspondence, documents, records, notebooks, printouts, disks, programs, electronic or magnetic storage media, and similar repositories of CA Confidential Information, including all copies thereof, then in Client's possession or under Client's control, whether prepared by Client or by employees or agents of Client.

f. This obligation to safeguard and maintain secret CA Confidential Information shall continue for a period of three (3) years after the earlier of termination of this Agreement or completion of all works and services under all Statements of Work.

23. MULTI-TERM FUNDING CANCELLATION CLAUSE

When Client makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of each applicable Statement of Work, such Statement of Work shall be canceled. A determination by the Client that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive. Client agrees that such clause shall be invoked only if sufficient funds are not made available and that Client will use its best efforts to ensure that sufficient funding is made available to permit performance of the applicable Statement of Work for its full Term. Client represents that it is a government agency or instrumentality, and that Client has obtained all requisite approvals and authority to enter into and perform its obligations hereunder, including, without limitation, the obligation to make the initial payment or payments required to be made hereunder on the date or dates upon which such initial payment or payments may become due during Client's current fiscal year.

24. PRESS RELEASE

Client agrees to a joint press release with CA, in form and substance approved by both parties, stating the reasons that Client entered into the Agreement. In addition, Client shall reference its use of the Licensed Software in such press release.

25. AUTHORITY TO BIND THE PARTIES

Notwithstanding anything in the Agreement to the contrary, the signatory for each party represents that he or she has been duly authorized to execute contracts on behalf of such party and has obtained all necessary or applicable approval from such party to make this Agreement fully binding when his or her signature is affixed, and is not subject to further acceptance hereto.

26. INDEPENDENT CONTRACTORS

Both parties hereto, in the performance of this Agreement, will be acting in an individual capacity and not as agents, employees, partners, joint venturers or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume any liability for any injury (including death) to any persons, or any damage to any property arising out of the acts or omissions of the agents, employees or sub-contractors of the other party. Nothing in this Agreement is intended to establish a partnership, joint venture, or agency relationship between the parties.

27. NONDISCRIMINATION

Pursuant to IC 22-9-1-10 and the Civil Rights Act of 1964, CA and its agents, if any, shall not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement, with respect to his hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of his race, color, religion, sex, disability, national origin, ancestry or status as a veteran. CA understands that Client is a recipient of federal funds. Pursuant to that understanding CA, and its sub-contractors, if any, agree that if CA employs 50 or more employees and does at least \$50,000.00 worth of business with the State of Indiana and is not exempt, CA will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. Breach of this covenant may be regarded as a material breach of Agreement. The State of Indiana shall comply with Section 202 of Executive Order 11246, as amended, 41 CFR 60-250, and 41 CFR 60-741, as amended, which are incorporated herein by specific reference.

28. TAXES

The Client does not agree to pay and will not be responsible for any taxes levied as a result of each applicable Statement of Work. The invoices submitted for payment shall not include any taxes. The Client shall, upon request, furnish a copy of a tax exemption certificate.

29. FORCE MAJEURE

Neither party shall be responsible for any failure to comply with, or for any delay in performance of, the terms of this Agreement, including, but not limited to, delays in completion of the services, where such failure or delay is directly or indirectly caused by or results from events of force majeure beyond the reasonable control of such party.

30. INSURANCE

CA shall maintain in full force and effect, and upon the written request of Client, shall furnish evidence, in the form of a certificate of insurance, of the following insurance coverage:

a. Comprehensive general liability insurance with minimum limits of \$1,000,000 per occurrence and \$3,000,000 aggregate that will cover any and all losses to the insured's property, the property of Client, the property of third parties, or personal injuries caused by the insured party.

b. Workers' compensation insurance in accordance with applicable law.

c. Comprehensive Automobile Liability, covering the ownership, operation and maintenance of all owned, non-owned and hired automobiles used in connection with the performance of this Agreement, with minimum limits of \$1,000,000 combined single limit.

31. WAIVER

No provision of this Agreement shall be deemed waived, unless such waiver shall be in writing and signed by the party against which the waiver is sought to be enforced. The waiver by either of the parties hereto of any breach of any provision hereof by the other party shall not be construed to be either a waiver of any succeeding breach of any such provision or a waiver of the provision itself.

32. ENTIRE AGREEMENT

This Agreement including the Statements of Work and documents supplemental thereto contain the entire agreement between the parties with respect to the subject matter hereof and supersedes all previous written or oral understandings, agreements, negotiations, commitments, or any other writings or communications with respect to such subject matter and takes precedent over any and all terms contained in any purchase orders which may have been previously or may be subsequently issued by Client related to the subject matter of this Agreement. The terms of this Agreement shall not supercede the terms of the License Agreement executed between the parties effective as of the same date of this Agreement.

33. COMPLIANCE WITH LAWS

CA and Client agree to comply with all applicable federal, state and local laws, rules, regulations, or ordinances, and all provisions required thereby to be included herein and are hereby incorporated by reference. The enactment of any state or federal statute or the promulgation of regulations thereunder after execution of this Agreement shall be reviewed by Client and CA to determine whether the provisions of the Agreement require formal modification.

34. GOVERNING LAWS

This Agreement shall be construed in accordance with and governed by the laws of the State of Indiana and suit, if any, must be brought in the State of Indiana.

35. MAINTAINING A DRUG-FREE WORKPLACE

CA hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace.

False certification or violation of the certification may result in sanctions including, but not limited to, suspension of Agreement payments, termination of the Agreement or agreement and/or debarment of contracting opportunities with CA for up to three (3) years.

In addition to the provisions of the above paragraphs, because the total Agreement amount set forth in this Agreement is in excess of \$25,000.00, CA hereby further agrees that this Agreement is expressly subject to the terms, conditions and representations of the following certification:

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. Pursuant to its delegated authority, the Indiana Department of Administration requires the inclusion of this certification in all contracts with and grants from the State of Indiana in excess of \$25,000.00. No award of a contract shall be made, and no contract, purchase order or agreement, the total amount of which exceeds \$25,000.00, shall be valid, unless and until this certification has been fully executed by CA and made a part of the Agreement.

CA certifies and agrees that it will provide a drug-free workplace by:

a. Publishing and providing to all of its employees a statement notifying their employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in CA's workplace and specifying the actions that will be taken against employees for violations of such prohibition; and

b. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) CA's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance

programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace.

c. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment the employee will (1) abide by the terms of the statement; and (2) notify CA of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

d. Notifying in writing the State within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;

e. Within thirty (30) days after receiving notice under subdivision (c)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) take appropriate personnel action against the employee, up to and including termination; or (2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and

f. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (a) through (e) above.

36. NOTICE TO PARTIES

Whenever any notice, statement or other communication shall be sent to Client or CA, it shall be sent to the following address, unless otherwise specifically advised.

a. Notices to the Client shall be sent to:

Kurt Snyder, Director and Counsel of Trial Court Technology
Division of State Court Administration
Indiana Supreme Court
115 West Washington Street, Suite 1080
Indianapolis, IN 46204

With a copy to:

Lilia Judson, Executive Director
Division of State Court Administration
115 West Washington Street, Suite 1080
Indianapolis, IN 46204

b. Notices to CA shall be sent to:

Attn: Legal Department

Computer Associates International, Inc.
One Computer Associates Plaza
Islandia, NY 11749

With a copy to:

Mr. Michael Miralis
Computer Associates International, Inc.
100 Staples Drive
Framingham, MA 01702

- c. Payments to CA shall be sent to:

Computer Associates International, Inc.
PO Box 360355
Pittsburgh, PA 15251-6355

37. NON-COLLUSION STATEMENT

This is to certify that the signatory for CA, being duly affirmed under oath says, that he or she is the agent of the contracting party; that he or she has not, nor has any other employee of the company represented by him or her, directly or indirectly, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he or she has not received or paid, any sum of money or other consideration for the execution of the Agreement other than that which appears upon the face of the Agreement.

38. PROJECT CHARTER

If CA requests, following acceptance of a Statement of Work by CA and Client, the parties shall meet to prepare a Project Charter which will confirm all of the requirements for the successful completion of the project, outline CA's Project Management Methodology, and define how CA and Client will monitor and manage the project. In addition, the Project Charter will identify CA and Client Contacts, state the CA project management procedures that will be followed, state how all the major activities in the project will be achieved and address the overall project control. In the event that CA and the Client cannot agree on a Project Charter that is acceptable to both parties, CA shall have the right, upon written notice to Client, to terminate the Statement of Work without liability and Client shall pay CA, at CA's standard rates, for the amount of time and expenses up to the date of termination.

If it is determined during the preparation of a Project Charter, or at any other time, that any of the terms and conditions of the Statement of Work describing the project need to be modified, CA and Client agree that a Change Request form must be completed to amend the Statement of Work (see section 10 Change Order Procedure for more details). Nothing contained in the Project Charter shall in any way amend or

modify any of the terms and conditions provided for in a Statement of Work or this Professional Services Agreement. In the event of any conflict between the terms and conditions of this Statement of Work and the Professional Services Agreement, and the information contained in the Project Charter, the terms and conditions of the Statement of Work or Professional Services Agreement shall prevail in accordance with Section 5 herein.

39. PROJECT COMPLETION

Unless otherwise specified in a Statement of Work, when all Deliverables specified in a Statement of Work are complete, the parties will conduct a final project close-out meeting or conference call. In this meeting, the Client and CA will determine if both parties have met all of the requirements as outlined in the Statement of Work.

Unless otherwise specified in a Statement of Work, the CA Project Manager will obtain the client's unconditional approval and signoff on the project that the requirements of the Statement of Work are carried out and all the contractual obligations were met, including the following:

- a. All Change Requests (Form QF0280A) have been applied or deferred.
- b. All products to be delivered, as recorded on the Managed Products Register (Form QF0080B), match what was successfully reviewed, accepted and distributed, according to the Product Management procedures.
- c. Any Client-supplied products identified on the Managed Product Register (QF0080B) to be returned, have been returned and the 'date returned' is noted on the register.
- d. The CA Project Manager will prepare the Project Closure Form (QF0200) for Client sign off.
- e. The CA Project Manager will ensure that no issues are outstanding. If there are open issues, such as with CA Product Technical Support, the CA Project Manager will make sure they are identified and the client agrees that Project Closure is not contingent on their resolution.
- f. CA will ensure a CA Relationship Manager is assigned to the account or re-introduce them to the client. The CA Relationship Manager will own the ongoing relationship and act as the contact point for any issues that may arise after project close.
- g. The CA Project Manager will consider introducing the local GSS representative to talk the client through the 'Client Reference Opportunities' form, if client is considered a potential reference opportunity.
- h. The CA Project Manager will inform the Client that CA will be soliciting shortly

his/her evaluation.

i. The CA Project Manager will ensure that the Client has a contact list for future needs and opportunities.

40. GENERAL CLIENT RESPONSIBILITIES

The Parties acknowledge that there are general Client responsibilities that are required in order for CA to be successful in the performance of the services under Statement's of Work subordinate to this Agreement. If it is determined by CA that the Client has not met all of these responsibilities, CA shall follow the procedures set forth in Section 9.

The Client agrees that it will satisfy the following responsibilities prior to the start of a project or during the term of a project:

a. Make Client personnel who may be part of the project team available for interviews;

b. Make identified hardware/software available;

c. Perform timely turnaround for issue resolution, review, acceptance, etc.;

d. Make appropriate office space and standard office resources available, including adequate workstations, log-ins and passwords to accomplish appropriate tasks, etc.;

e. Provide access to information concerning the Client's systems and applications (this information must completely and accurately reflect any procedures or conditions currently in effect);

f. Ensure that all CA and third party software installed, or to be installed, is properly licensed for the proposed site locations;

g. Ensure that all prerequisite supporting system software and software resources are installed at required configurations and release levels prior to the services stage of a Statement of Work, unless otherwise provided for therein;

h. Designate one Client staff member as the CA principal Client contact. This person will designate the individuals for knowledge transfer as applicable. Client assumes responsibility for transcribing, publishing, and distributing all new and revised policies, standards, forms and procedures that are added or changed due to the services described in a Statement of Work; and

i. Provide CA with written notice of any specific security requirements of Client.

41. PROJECT START DATE

Unless otherwise specified within a Statement of Work, the project described in a Statement of Work will usually start within two weeks after Client has notified CA that Client responsibilities have been satisfied.

IN WITNESS WHEREOF, CA and Client have executed this Agreement.

Computer Associates, Inc. (CA)

Indiana Supreme Court Division of State
Court Administration (CLIENT)

Signed

Signed

Printed

Lilia G. Judson

Printed

Title

Executive Director, Division of State
Court Administration

Title

Dated

June 28, 2002

Dated